

or legal adviser may ask the U.S. Attorney to file suit. A copy of the complaint will be sent to Litigation Division. DOJ can take action to evict the occupants for violation of the terms of occupancy and collect delinquent rent or other charges. Once the matter has been referred to the U.S. Attorney, payments for rent should be sent to the U.S. Attorney. (See AR 210-50, chap 2.)

Subpart F—Environmental Litigation

§ 516.38 Scope.

This subpart contains guidance, policies, and procedures applicable to all environmental and natural resources civil litigation and administrative proceedings involving missions and functions of DA, its major and subordinate commands, all installations presently or previously managed by DA, and all other sites or issues in which DA has a substantial interest. In this chapter, “litigation” includes civil administrative proceedings.

§ 516.39 Duties and procedures.

(a) Water rights. Environmental Law Division will conduct direct liaison with DOJ and will represent DA in State and Federal litigation relating to availability and allocation of surface and ground water and the establishment and protection of water rights for Army military installations and activities. This will include litigation in State general adjudications of water rights under the McCarran Amendment, 43 U.S.C. 666, for Army military installations and activities. Such litigation relating solely to COE civil works projects or activities will be handled by attorneys under the technical supervision of the Chief Counsel, COE. With respect to any general adjudication which could affect the civil works or real property functions of COE, The Judge Advocate General, acting through the Chief, Environmental Law Division, and Chief Counsel, COE, will jointly determine which office should maintain primary direct liaison with DOJ and will scope and execute appropriate coordination with each other and with the General Counsel with respect to that litigation.

(b) Navigable waters. The Chief Counsel, COE, will conduct direct liaison with DOJ and represent DA in civil litigation involving activities in or across navigable waters of the United States or other activities regulated under the Rivers and Harbors Act of 1899, 33 U.S.C. 401 et seq.

(c) Waters of the United States. The Chief Counsel, COE, will conduct direct liaison with DOJ and represent DA in civil litigation involving The Clean Water Act section 404 (See 33 U.S.C. 1344) permit authority of COE over the discharge of dredged or fill material into waters of the United States.

(d) Enforcement. Environmental Law Division will conduct direct liaison with DOJ and represent DA in all civil litigation involving citizen or State enforcement of applicable State, Federal and local requirements respecting the control or abatement of pollution and involving the management of hazardous wastes, with respect to the missions and functions of, and Federal facilities owned or controlled by, DA, except for civil works facilities.

(e) Environmental response.

(1) Except as provided in (a)(2) of this section. Environmental Law Division will conduct direct liaison with DOJ and represent DA in all civil litigation seeking declaratory or injunctive relief or involving claims of Army liability for the costs of response at Federal facilities currently owned or controlled by DA and at other sites where the Army is a potentially responsible party.

(2) The Chief Counsel, COE, will conduct direct liaison with DOJ and represent DA in all civil litigation seeking declaratory or injunctive relief or involving claims of Army liability for the costs of response at civil works facilities, at former defense sites or at other sites where the Army is a potentially responsible party due to the response actions of the COE or its contractors.

(f) Fish and Wildlife, and Plants. Environmental Law Division will conduct direct liaison with DOJ and represent DA in civil litigation involving citizen or State enforcement of applicable State, Federal, and local laws governing conservation of plant, fish, and wildlife resources at Federal facilities